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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,074	04/23/2004	Feng Liang	8001-001-05	7673

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DLA PIPER US LLP
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1200 NINETEENTH STREET, NW
WASHINGTON, DC 20036

EXAMINER

MILLER, MARINA I

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/830,074	Applicant(s) LIANG, FENG	
	Examiner Marina Miller	Art Unit 1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-53 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-32, drawn to a method and a server configuration for procuring biological content, classified in class 701, subclass 19.
- II. Claims 33-53, drawn to a method of offering a product to a user in a remote location, classified in class 705, subclass 26.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions I and II comprise different steps and have different goals; therefore Inventions have different modes of operations and different effects. For example, the method of Invention I comprises steps of interfacing by a user with target item server, inputting a request to generate extracts, and retrieving the extracts. The method of Invention II comprises steps of remotely providing an electronic data server, receiving an input, processing the input, interfacing a public database with a proprietary database, selecting a product, and outputting an extract. Thus, the Inventions have different modes of operations. Invention I is directed to procuring biological content and Invention II is directed to offering a product to a user in a remote location. Thus, the Inventions also have different effects.

Because these Inventions are distinct for the reasons given above, the classification is different, and the non-patent and patent literature search required for each group is not

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coextensive with that requirement for another group, restriction for examination purposes as indicated is proper.

Species Election

This application contains claims directed to the following patentably distinct species:

Species A: elect one biological product among those recited, for example, in claim 4.

Species B: elect one search category among those recited, for example, in claims 6-7.

Species C: elect one biological attribute among those recited, for example, in claim 10.

Species D: elect one database among those recited, for example, in claim 18.

Species E: elect one remote access mode among all modes recited, for example, in claims 36-39.

Species F: elect one message type among those recited in claims 44-48.

The species are independent or distinct because:

Species of group A, different biological products are distinct because they have different structure and function, are independent, and data generated for each product is expected to be different from the data generated for any other product.

Species of group B, different extract categories are distinct because the categories are independent, they are generally disclosed in different literature, and data generated for each category is expected to be different from the data generated for any other category.

Species of group C, different biological properties are distinct because they are structurally and functionally different, they are generally disclosed in different literature, and

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data generated for each attribute is expected to be different from the data generated for any other attribute.

Species of group D, different databases are distinct because they are structurally different, independent, are not required one for the other, and data generated from each database is expected to be different from the data generated from any other database.

Species of group E, different access modes are unrelated because they are not required for each other, independent, and have different modes of operation and structure.

Species of group F, different messages are distinct because they are independent and data generated for each message is expected to be different from the data generated for any other message.

Applicant is required under 35 U.S.C. 121 to elect ONE disclosed species from EACH of groups A-F, above, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Currently, claims 1-3, 5, 8-9, 11-17, 19-35, 40-43, and 49-53 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an

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allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Miller whose telephone number is (571)272-6101. The examiner can normally be reached on 8-6, M-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang, Ph. D. can be reached on (571)272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marina Miller
Examiner
Art Unit 1631

MM

MARJORIE A. MORAN
PRIMARY EXAMINER

Marjorie A. Moran
9/18/06